

REMARKS

Claims 1-4, 6, 11, and 14-16 are now pending in this application. Favorable reconsideration of the application in light of the following comments is respectfully solicited.

Rejection Under 35 U.S.C. § 103(a)

In section 5 of the Office Action, claims 1-4, 6, 11, and 14-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,671,323 (Tahara) in view of U.S. Patent No. 6,075,900 (Sakazawa) and U.S. Patent App. Pub. No. 2002/0054636 (Yoneyama).

Applicants respectfully traverse.

Independent claim 1 recites, *inter alia*,

receiving an input code stored in a hierarchical data structure, the input code including

 a parameter related to the amount of data encoded in the input code,

 . . .
 generating an output code stored in the hierarchical data structure by modifying the input code, by

 moving the user data to a third level of the hierarchical data structure, and

 changing the parameter to reflect the change in code size effected by the moving.

Independent claim 11 recites, *inter alia*,

 . . . identify[ing] in an input code stored in a hierarchical data structure a parameter related to the amount of data encoded in the input code

 . . .
 . . . produc[ing] an output code in which the input code is modified by moving the user data to a third level of the hierarchical data structure, [and] changing the parameter to reflect the change in code size effected by moving the user data.

In each of the claims, the recited parameter is included in an input code stored in a hierarchical data structure, and an output code stored in the hierarchical data structure is generated by modifying the input code by, *inter alia*, changing the parameter, as recited. Accordingly, the

parameter, which is included in the hierarchical data structure of the input and output codes, is changed to reflect the change in code size effected by moving user data between levels of a hierarchical data structure. Embodiments of the above limitations can perform a code translation by changing parameters showing the upper and lower limits, and a code translation can be performed by moving codes among the levels of the hierarchy without quantization or variable length encoding.

As acknowledged at page 7, line 20 to page 8, line 2 of the Office Action, Tahara and Sakazawa do not render obvious “changing the parameter,” as recited in claims 1 and 11. Seeking to bridge this gap between the claims and the cited art, the Office Action asserts Yoneyama discloses “changing the parameter” as recited in the claims. Office Action, page 8. However, Yoneyama fails to bridge the acknowledged gap between claims 1 and 11 and the cited art, as it fails to disclose or render obvious use of a parameter according to the claimed subject matter.

Page 8 of the Office Action asserts parameter setting means 102, as described in Yoneyama, paragraphs [0020] and [0050] and shown in Yoneyama, FIG. 1, discloses “changing the parameter,” as recited in claims 1 and 11. However, the parameter set output by parameter setting means 102 is neither included in an input code stored in a hierarchical data structure or in an output code stored in the hierarchical data structure. Accordingly, Yoneyama does not disclose or render obvious changing a parameter included in an input code stored in a hierarchical data structure in order to produce or generate the parameter included in the hierarchical data structure storing the output code.

Further, Yoneyama does not disclose or render obvious “changing the parameter to reflect [a] change in code size effected by [a] moving” of user data between hierarchical levels.

Instead, parameters output by parameter setting means 102 are used to control re-coding performed by coding means 101. Yoneyama discloses parameter setting means 102 “changes the coding conditions corresponding to the results output by the allocation means 104 and the updated coding conditions creating means 105” (paragraph [0050]) where “updated coding conditions creating means 105 converts the position information and the average target coding rate of the video editing units (VEUs) calculated by the allocation means 104 into coding conditions” (paragraph [0049]). Although it might appear that the changed coding conditions output by parameter setting means 102 reflects a change in code size, the change in code size in Yoneyama is reflected by coding difficulties of input video edit unit (VEU) images – not by a moving of user data between layers in a hierarchical data structure. Unlike the claimed subject matter, the parameters of Yoneyama are not changed to reflect a change in code size effected by moving user data within a hierarchical data structure, but instead are generated and employed to control and optimize picture quality resulting from the re-coding of the input image signal performed by coding means 101. Yoneyama’s system relies on a complicated coding means 101 for re-coding the input image signal. In contrast, the claimed subject matter has the object of converting codes by moving codes in a simpler circuit, and does not have to perform complicated processes, such as Yoneyama’s re-coding, quantization, or variable length coding. The parameters in Yoneyama are readily distinguished from the “parameter” recited in claims 1 and 11, and Yoneyama does not disclose or render obvious “changing the parameter to reflect the change in code size effected by the moving,” as recited in claim 1, or “changing the parameter to reflect the change in code size effected by moving the user data,” as recited in claim 11.

For at least the above reasons, Yoneyama does not disclose “changing the parameter” as recited in claims 1 and 11, and accordingly does not bridge the gap between independent claims

1 and 11 and the cited art. Thus, Applicants respectfully request withdrawal of the rejection of independent claims 1 and 11, and claims 2-4, 6, and 14-16 which depend thereon.

Conclusion

Accordingly, it is urged that the application is in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Eric M. Shelton

Registration No. 57,630

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MEF/EMS:amz
Facsimile: 202.756.8087
Date: December 10, 2009

**Please recognize our Customer No. 53080
as our correspondence address.**